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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,652	11/26/2001	Daniel C. Shaw	6278.244a	4497

7590

04/30/2003

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EXAMINER

FETSUGA, ROBERT M

ART UNIT

PAPER NUMBER

3751

15

DATE MAILED: 04/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/991,652

Applicant(s)

SHAW ET AL.

Examiner

Robert M. Fetsuga

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27, 30, 31, 33, 36-45, 48 and 49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27, 30, 31, 33, 36-45, 48 and 49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 3751

1. Claims 27, 30, 31, 33, 36-45, 48 and 49 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 27 recites, in part, "said microprocessor for delaying operation of one of said plurality of fixtures for an adjustable selected period of time". Applicant's have not disclosed how this is effected. Claims 37, 42 and 48 are similarly worded.

2. The claim hierarchy does not appear to be in accordance with MPEP 608.01(m). Claims remaining at allowance may require renumbering.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Art Unit: 3751

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 27, 30, 33 and 48 are rejected under 35

U.S.C. 102(e) as being anticipated by Shaw '758.

The Shaw '758 (Shaw) reference discloses a control system comprising: a plurality of fixtures T,S,U; a source of water 20; a plurality of valves 24; a plurality of sensors D; and a microprocessor 34,44, as claimed. Re claim 48, recitation of "prison" in the preamble thereof is considered merely a label where the balance of the claim otherwise defines only a plumbing/water control system.

5. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw.

The choice of sensor type would appear an obvious choice to be made as taught by Shaw at column 4, lines 50-52. And, a capacitance sensor is one of the many well known sensor types.

6. Claims 48 and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by Robertshaw.

Art Unit: 3751

The Robertshaw reference discloses a control system comprising: a sensor DS (col. 1 lns. 38-40); a plumbing fixture S; and a time-delaying D1 controller CB, as claimed. The controller is both adjustable (col. 2 lns. 33-35 and 40-43), and "remote" from the fixture (Fig. 1). The recitation of "prison" in the preamble thereof is considered merely a label where the balance of the claim otherwise defines only a plumbing/water control system.

7. Claims 27, 30, 31, 33, 36, 48 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robertshaw, Evelyn-Veere et al. and Atkins et al.

Re claim 27, the Robertshaw controller is a "microprocessor" as it include a timing chip 10 (col. 3 lns. 32-40), and the term "microprocessor" connotes no distinguishing structure thereover. In any event, the Evelyn-Veere et al. (Evelyn-Veere) reference teaches at lines 56-61 in column 5 it is a matter of choice to implement a controller as either a microprocessor or hard-wired. Re claim 36, Robertshaw teaches adjusting the delay to desired requirements (col. 3 lns. 27-28) where the choice of particular delay would appear an obvious choice to be made. Therefore, Robertshaw teaches all elements set forth in claims 27, 30, 36 except for the provision of associating a valve and sensor with individual fixtures.

Although the Robertshaw water control system does not include associating a valve and sensor with individual fixtures, as claimed, attention is directed to the Atkins et al. (Atkins) reference which discloses an analogous water control system which further includes associating a valve 14 and sensor 36 with individual fixtures 10 (col. 1 lns. 50-69). Therefore, in consideration of Atkins, it would have been obvious to one of ordinary skill in the art to associate a valve and sensor with individual fixtures of the Robertshaw water control system in order to prevent splashing or disturbing a user.

Re claim 31, although the Robertshaw sensor is not a capacitance sensor, as claimed, attention is again directed to Atkins which discloses use of a capacitance sensor. Therefore, in further consideration of Atkins, it would have been obvious to one of ordinary skill in the art to associate a capacitance sensor with the Robertshaw water control system in order to utilize a user's body capacity.

8. Claims 27, 30, 31, 33, 36-39, 48 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robertshaw, Evelyn-Veere and Atkins as applied to claim 27 above, and further in view of Morris et al.

Although the Robertshaw water control system does not include a plurality of indicators, as claimed, attention is

Art Unit: 3751

directed to the Morris et al. (Morris) reference which discloses an analogous water control system which further includes a plurality of indicators (col. 8 lns. 17-35). Therefore, in consideration of Morris, it would have been obvious to one of ordinary skill in the art to associate a plurality of indicators with the Robertshaw water control system in order to facilitate use in a prison.

9. Claims 40-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robertshaw, Evelyn-Veere, Atkins and Morris as applied to claim 37 above, and further in view of Book.

Although the Robertshaw water control system does not include a plurality of switches and a master switch, as claimed, attention is directed to the Book reference which discloses an analogous water control system which further includes a plurality of switches (col. 11 lns. 2-3) and a master switch 149. Therefore, in consideration of Book, it would have been obvious to one of ordinary skill in the art to associate a plurality of switches and a master switch with the Robertshaw water control system in order to facilitate user control.

10. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

Art Unit: 3751

11. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

12. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 703/308-1506 who can be most easily reached Monday through Thursday.

A handwritten signature in black ink, appearing to read "Robert M. Fetsuga", with a stylized flourish at the end.

Robert M. Fetsuga
Primary Examiner
Art Unit 3751